

## TO AGENCY PURCHASING PERSONNEL:

If you are issuing bids, requests for proposals or requests for quotes that come within the small purchase exemption, or are being done through a delegation, please note that Executive Order 2006-40, Idaho Code section 67-7903 and Executive Order 2007-09 are or maybe be applicable. By virtue of operating under an exemption or a delegation, you are responsible to ensure that these are properly applied. The summary below is intended to help you understand the substance of each and how they might impact your purchasing activities. PLEASE CONTACT THE DIVISION OF PURCHASING IF YOU HAVE QUESTIONS AT ANY TIME.

Executive Order 2006-40 [[http://gov.idaho.gov/mediacenter/execorders/eo06/eo\\_2006-40.html](http://gov.idaho.gov/mediacenter/execorders/eo06/eo_2006-40.html)] requires procedures to verify and ensure that contracts for services performed for the State *in* Idaho are with businesses that employ individuals who reside in the United States and are eligible under federal and state law to work in the United States.<sup>1</sup>

Idaho Code section 67-79037903 [<http://www3.state.id.us/cgi-bin/newidst?sctid=670790003.K>] requires verification of lawful presence in the United States for contracts with natural persons 18 years of age or older.

### Executive Order 2007-09

[[http://gov.idaho.gov/mediacenter/execorders/eo07/eo\\_2007\\_09.html](http://gov.idaho.gov/mediacenter/execorders/eo07/eo_2007_09.html)] involves the purchase of services and the licensing/leasing of software and, unless one of the exceptions applies, provides that the Division of Purchasing shall not award a service contract or a contract for the development, sale or licensing of software where related services shall be done outside the United States. You should review and be familiar with the exceptions provided in Executive Order 2007-09. Summarized, there may be an exception if:

- a. the service of software is unique, mandatory for the agency and no comparable product can be acquired domestically; or
- b. the service to market Idaho services or products to a foreign country; or
- c. Not using this vendor would require the State to incur a significant and substantial cost; or
- d. The vendor or subcontractor has a significant business presence in the United States and only a de minimus portion of the work under the contract will be performed outside the United States.

TO SEE HOW THE DIVISION OF PURCHASING IS APPROACHING THESE LEGAL REQUIREMENTS, SEE THE LINKS OR DOCUMENTS PROVIDED BELOW:

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<sup>1</sup> NOTE: The Executive Order states “for the State in Idaho” and NOT “for the State of Idaho.” The services must be performed in the state to be subject to Executive Order 2007-09.

- Instructions to Vendors, Paragraph 16D at [http://adm.idaho.gov/purchasing/TCs/Solicitation\\_Instructions.pdf](http://adm.idaho.gov/purchasing/TCs/Solicitation_Instructions.pdf)
- State of Idaho Standard Terms and Conditions, Section 35 at [http://adm.idaho.gov/purchasing/TCs/Standard\\_Terms\\_and\\_Conditions.pdf](http://adm.idaho.gov/purchasing/TCs/Standard_Terms_and_Conditions.pdf)
- Also, see the attached Item 1 (Verification process related to Idaho Code section 67-7903).